UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROSAURY PAEZ,

Plaintiff,

-against-

PENN CREDIT CORPORATION,

Defendant.

CIVIL ACTION

COMPLAINT
AND
DEMAND FOR JURY TRIAL

Plaintiff ROSARY PAEZ (hereinafter, "Plaintiff"), a New York resident, brings this complaint by and through her attorney, Joseph H. Mizrahi Law, P.C., against Defendant PENN CREDIT CORPORATION (hereinafter "Defendant"), based upon information and belief of Plaintiff's counsel, except for allegations specifically pertaining to Plaintiff, which are based upon Plaintiff's personal knowledge.

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action under 28 U.S.C. § 1331, 15 U.S.C. § 1692 *et seq.* and 28 U.S.C. § 2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. § 1367(a).
2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b((2).

NATURE OF THE ACTION

3. Plaintiff brings this action on behalf of herself seeking redress for Defendant's action of using an unfair and unconscionable means to collect a debt.
4. Defendant's actions violated § 1692 *et seq.* of Title 15 of the United States Code, commonly referred to as the "FDCPA," which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.
5. Plaintiff is seeking damages, and declaratory and injunctive relief.

PARTIES

6. Plaintiff is a natural person and a resident of the State of New York, and is a "Consumer" as defined by 15 U.S.C. §1692(a)(3).

7. Defendant is a collection agency with an office maintained in Harrisburg, Pennsylvania.

8. Upon information and belief, Defendant is a company that uses the mail, telephone, and facsimile and regularly engages in business the principal purpose of which is to attempt to collect debts alleged to be due another.

9. Defendant is a "debt collector," as defined under the FDCPA under 15 U.S.C. § 1692a(6).

ALLEGATIONS OF FACT

10. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "9" herein with the same force and effect as if the same were set forth at length herein.

11. Upon information and belief, Defendant, on behalf of a third-party, began efforts to collect an alleged consumer debt from Plaintiff.

12. In an effort to begin collecting on this debt, Defendant reported this debt to the credit reporting agencies causing it to be listed on Plaintiff's credit report.

13. Thereafter, on or around April 28, 2017, Plaintiff called Defendant to inquire about the alleged debt.

14. During that phone call, Plaintiff authorized her representative (hereinafter "Plaintiff"), to discuss the status of the debt with Defendant.

15. A representative of Defendant answered the phone and identified herself as "Sharon."

16. After taking steps to find the account, Defendant stated that the current account was for $2,045.53.

17. Plaintiff thereafter stated that she disagreed with the account balance and asked to file a dispute with Defendant.

18. In response, Defendant indicated that “if you have question regarding the balance you need to call them directly.”

19. Plaintiff then attempted to confirm that “to dispute that account I have to call them,” to which Defendant responded, “you are disputing it directly with them.”

20. Defendant proceeded to provide Plaintiff with the telephone number of the creditor, failing to inform Plaintiff that she had a right to dispute the debt over the phone with Defendant.

21. Plaintiff became confused as to her rights and soon after ended the phone call.

22. As set forth in the following Counts Defendant violated the FDCPA.

First Count
15 U.S.C. §1692e *et seq.*
False or Misleading Representations as to the Status of the Debt

23. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “22” herein with the same force and effect as if the same were set forth at length herein.

24. Defendant’s debt collection efforts attempted and/or directed towards Plaintiff violated various provisions of the FDCPA, including but not limited to § 1692(e) by using false, deceptive, and misleading representations in connection with the collection of a debt.

25. Defendant violated said section by not accepting Plaintiff’s dispute over the phone.

26. Defendant further violated same by falsely stating that Plaintiff can only dispute the debt directly with the creditor.

27. As a result of Defendant’s violation of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

28. Defendant could have taken the steps necessary to bring its actions within compliance of

the FDCPA, but neglected to do so and failed to adequately review its actions to ensure compliance with the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

(a) A declaration that Defendant violated the FDCPA;

(d) Awarding Plaintiff costs of this Action, including reasonable attorneys' fees and expenses;

(e) Awarding pre-judgment interest and post-judgment interest; and

(f) Awarding Plaintiff such other and further relief as this Court may deem just and proper.

Respectfully submitted,

By: /s/ Joseph H. Mizrahi________
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DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby requests a trial by jury on all issues so triable.

*/s/ Joseph H. Mizrahi*______________
Joseph H. Mizrahi, Esq.

Dated: Brooklyn, New York
May 11, 2017